

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed March 30, 2005. Claims 1-21 were rejected.

Claims 1-31 were originally presented. Claims 1-21 remain in the application. Claims 22-31 have been canceled without prejudice. No claims have been amended. No claims have been added.

Claim Rejections - 35 U.S.C. § 102

Claims 1-6, 9-17, and 21 were rejected under 35 U.S.C. § 102(e) as being anticipated by Chaiken (US 2004/0218499).

Applicants note that according to the provisions set forth in the Manual of Patent Examining Procedure § 706.02(f), that the effective date for Chaiken as a prior art reference under 35 U.S.C. § 102(e) is May 1, 2003. Applicants submit that the present invention was reduced to practice prior to May 1, 2003. Declarations from the Applicants to this effect under 37 C.F.R. § 1.131 setting forth the facts concerning reduction to practice are appended hereto as Exhibit 1. Further, a redacted copy of run logs and a graph showing results of the utilization of the claimed invention is appended herewith as Exhibit 2, as showing reduction to practice of the present invention prior to the date of the asserted reference.

As such, Applicants respectfully submit that the asserted Chaiken reference does not qualify as prior art under 35 U.S.C. § 102(e), and respectfully requests that the rejection be withdrawn. The Applicant respectfully submits that claims 1-6, 9-17, and 21 are allowable, and urges the Examiner to withdraw the rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 7, 8, and 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chaiken in view of Carlson et al. (US 6,784,361) (hereinafter "Carlson").

As previously noted, the Chaiken reference does not qualify as prior art under 35 U.S.C. § 102(e). Therefore, the 35 U.S.C. § 103(a) rejection is considered moot.

Assuming, arguendo, that the §102(e) reference were available, the Chaiken reference will not qualify as prior art under 35 U.S.C. §103(c) since the Chaiken patent and the Applicant's invention were commonly owned at the time the invention was made. Therefore, under 35 U.S.C. §103(c), the rejection is considered moot. The Applicant respectfully submits that claims 7, 8, and 18-20 are allowable, and urges the Examiner to withdraw the rejection.

CONCLUSION

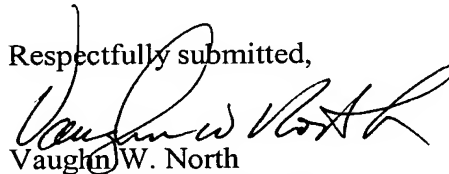
In light of the above, Applicant respectfully submits that pending claims 1-21 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Vaughn North at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Check No. 2278 in the amount of \$120.00, is enclosed pursuant to 37 C.F.R. § 1.17(a)(1), for a one month extension of time pursuant to 37 C.F.R. § 1.136. No claims were added. Therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 08-2025.

DATED this 29th day of July, 2005.

Respectfully submitted,



Vaughn W. North

Registration No. 27,930

THORPE NORTH & WESTERN, LLP

Customer No. 20,551

P.O. Box 1219

Sandy, Utah 84091-1219

Telephone: (801) 566-6633